

AMENDED IN ASSEMBLY MARCH 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2607

Introduced by Assembly Member Skinner

February 21, 2014

An act to ~~add Section 241.15 to~~ amend Sections 727 and 737 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2607, as amended, Skinner. Juveniles: ~~dual status children.~~ detention.

Existing law makes a minor, under certain circumstances, subject to the jurisdiction of the juvenile court. If the minor has been abused or neglected, or if the minor has violated a law or ordinance, as specified, the juvenile court may adjudge the minor to be a dependent or a ward of the court, respectively. Existing law authorizes the court to order a person who has been adjudged a ward of the juvenile court to be detained in the detention home, or in the case of a ward who is 18 years of age or older, in a county jail. In any case in which a minor is detained for more than 15 days pending the execution of the order of commitment or of any other disposition, existing law requires the court to periodically review the case to determine whether the delay is reasonable.

This bill would make those provisions applicable to nonminors. The bill would require these periodic reviews to be held at a hearing and also would prohibit a court from determining that certain delays are reasonable, including, but not limited to, delays caused by administrative processes.

Existing law authorizes the court to make any reasonable orders for the care, supervision, custody, conduct, maintenance, and support of a minor or nonminor who is adjudged a ward of the court. Existing law requires the court in certain cases to order the care, custody, and control of the minor or nonminor to be under the supervision of a probation officer who may place the minor or nonminor in an approved home of a relative or nonrelative, suitable licensed home community care facility, or with a foster family agency.

This bill would require a minor or nonminor to be released from juvenile detention upon an order being entered to place the minor or nonminor under the supervision of a probation officer, unless the court determines that a delay in the release from juvenile detention is reasonable.

~~Existing law provides that whenever a minor appears to come within the descriptions of both a dependent child and a ward of the juvenile court, the county probation department and the child protective services department shall, pursuant to a jointly developed written protocol, initially determine which status will serve the best interests of the minor and the protection of society. Existing law authorizes the probation department and the child welfare services department in any county to create a protocol which would permit a minor who meets specified criteria to be designated as both a dependent child and a ward of the juvenile court, as specified. Under existing law, a minor who is designated as both a dependent child and a ward of the juvenile court is known as a dual status child.~~

~~This bill would prohibit a county from permitting a minor who is under the jurisdiction of the court as a dependent and who concurrently or subsequently comes under the jurisdiction of the court as a ward from remaining in juvenile detention beyond the completion of the period of confinement imposed by the court.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 727 of the Welfare and Institutions Code
- 2 is amended to read:
- 3 727. (a) (1) If a minor or nonminor is adjudged a ward of the
- 4 court on the ground that he or she is a person described by Section
- 5 601 or 602, the court may make any reasonable orders for the care,

1 supervision, custody, conduct, maintenance, and support of the
2 minor or nonminor, including medical treatment, subject to further
3 order of the court.

4 (2) In the discretion of the court, a ward may be ordered to be
5 on probation without supervision of the probation officer. The
6 court, in so ordering, may impose on the ward any and all
7 reasonable conditions of behavior as may be appropriate under
8 this disposition. A minor or nonminor who has been adjudged a
9 ward of the court on the basis of the commission of any of the
10 offenses described in subdivision (b) or paragraph (2) of
11 subdivision (d) of Section 707, Section 459 of the Penal Code, or
12 subdivision (a) of Section 11350 of the Health and Safety Code,
13 shall not be eligible for probation without supervision of the
14 probation officer. A minor or nonminor who has been adjudged a
15 ward of the court on the basis of the commission of any offense
16 involving the sale or possession for sale of a controlled substance,
17 except misdemeanor offenses involving marijuana, as specified in
18 Chapter 2 (commencing with Section 11053) of Division 10 of the
19 Health and Safety Code, or of an offense in violation of Section
20 32625 of the Penal Code, shall be eligible for probation without
21 supervision of the probation officer only when the court determines
22 that the interests of justice would best be served and states reasons
23 on the record for that determination.

24 (3) In all other cases, the court shall order the care, custody, and
25 control of the minor or nonminor to be under the supervision of
26 the probation officer who may place the minor or nonminor in any
27 of the following:

28 (A) The approved home of a relative or the approved home of
29 a nonrelative, extended family member, as defined in Section
30 362.7. If a decision has been made to place the minor in the home
31 of a relative, the court may authorize the relative to give legal
32 consent for the minor's medical, surgical, and dental care and
33 education as if the relative caretaker were the custodial parent of
34 the minor.

35 (B) A suitable licensed community care facility, except a
36 runaway and homeless youth shelter licensed by the State
37 Department of Social Services pursuant to Section 1502.35 of the
38 Health and Safety Code.

1 (C) With a foster family agency to be placed in a suitable
2 licensed foster family home or certified family home which has
3 been certified by the agency as meeting licensing standards.

4 (D) (i) Every minor adjudged a ward of the juvenile court who
5 is residing in a placement as defined in subparagraphs (A) to (C),
6 inclusive, shall be entitled to participate in age-appropriate
7 extracurricular, enrichment, and social activities. ~~No~~ A state or
8 local regulation or policy ~~may~~ *shall not* prevent, or create barriers
9 to, participation in those activities. Each state and local entity shall
10 ensure that private agencies that provide foster care services to
11 wards have policies consistent with this section and that those
12 agencies promote and protect the ability of wards to participate in
13 age-appropriate extracurricular, enrichment, and social activities.
14 A group home administrator, a facility manager, or his or her
15 responsible designee, and a caregiver, as defined in paragraph (1)
16 of subdivision (a) of Section 362.04, shall use a reasonable and
17 prudent parent standard, as defined in paragraph (2) of subdivision
18 (a) of Section 362.04, in determining whether to give permission
19 for a minor residing in foster care to participate in extracurricular,
20 enrichment, and social activities. A group home administrator, a
21 facility manager, or his or her responsible designee, and a caregiver
22 shall take reasonable steps to determine the appropriateness of the
23 activity taking into consideration the minor's age, maturity, and
24 developmental level.

25 (ii) A group home administrator or a facility manager, or his or
26 her responsible designee, is encouraged to consult with social work
27 or treatment staff members who are most familiar with the minor
28 at the group home in applying and using the reasonable and prudent
29 parent standard.

30 (E) For nonminors, an approved supervised independent living
31 setting as defined in Section 11400, including a residential housing
32 unit certified by a licensed transitional housing placement provider.

33 *(4) The minor or nonminor shall be released from juvenile*
34 *detention upon an order being entered under paragraph (3), unless*
35 *the court determines that a delay in the release from detention is*
36 *reasonable pursuant to Section 737.*

37 (b) (1) To facilitate coordination and cooperation among
38 agencies, the court may, at any time after a petition has been filed,
39 after giving notice and an opportunity to be heard, join in the
40 juvenile court proceedings any agency that the court determines

1 has failed to meet a legal obligation to provide services to a minor,
2 for whom a petition has been filed under Section 601 or 602, to a
3 nonminor, as described in Section 303, or to a nonminor dependent,
4 as defined in subdivision (v) of Section 11400. In any proceeding
5 in which an agency is joined, the court shall not impose duties
6 upon the agency beyond those mandated by law. The purpose of
7 joinder under this section is to ensure the delivery and coordination
8 of legally mandated services to the minor. The joinder shall not
9 be maintained for any other purpose. Nothing in this section shall
10 prohibit agencies that have received notice of the hearing on joinder
11 from meeting prior to the hearing to coordinate services.

12 (2) The court has no authority to order services unless it has
13 been determined through the administrative process of an agency
14 that has been joined as a party, that the minor, nonminor, or
15 nonminor dependent is eligible for those services. With respect to
16 mental health assessment, treatment, and case management services
17 pursuant to Chapter 26.5 (commencing with Section 7570) of
18 Division 7 of Title 1 of the Government Code, the court's
19 determination shall be limited to whether the agency has complied
20 with that chapter.

21 (3) For the purposes of this subdivision, "agency" means any
22 governmental agency or any private service provider or individual
23 that receives federal, state, or local governmental funding or
24 reimbursement for providing services directly to a child, nonminor,
25 or nonminor dependent.

26 (c) If a minor has been adjudged a ward of the court on the
27 ground that he or she is a person described in Section 601 or 602,
28 and the court finds that notice has been given in accordance with
29 Section 661, and if the court orders that a parent or guardian shall
30 retain custody of that minor either subject to or without the
31 supervision of the probation officer, the parent or guardian may
32 be required to participate with that minor in a counseling or
33 education program, including, but not limited to, parent education
34 and parenting programs operated by community colleges, school
35 districts, or other appropriate agencies designated by the court.

36 (d) The juvenile court may direct any reasonable orders to the
37 parents and guardians of the minor who is the subject of any
38 proceedings under this chapter as the court deems necessary and
39 proper to carry out subdivisions (a), (b), and (c) including orders
40 to appear before a county financial evaluation officer, to ensure

1 the minor's regular school attendance, and to make reasonable
2 efforts to obtain appropriate educational services necessary to meet
3 the needs of the minor.

4 If counseling or other treatment services are ordered for the
5 minor, the parent, guardian, or foster parent shall be ordered to
6 participate in those services, unless participation by the parent,
7 guardian, or foster parent is deemed by the court to be inappropriate
8 or potentially detrimental to the minor.

9 *SEC. 2. Section 737 of the Welfare and Institutions Code is*
10 *amended to read:*

11 737. (a) Whenever a person has been adjudged a ward of the
12 juvenile court and has been committed or otherwise disposed of
13 as provided in this chapter for the care of wards of the juvenile
14 court, the court may order that the ward be detained in the detention
15 home, or in the case of a ward of the age of 18 years or more, in
16 the county jail or otherwise as the court deems fit until the
17 execution of the order of commitment or of other disposition.

18 (b) In any case in which a minor *or nonminor* is detained for
19 more than 15 days pending the execution of the order of
20 commitment or of any other disposition, the court shall periodically
21 review the case to determine whether the delay is reasonable. These
22 periodic reviews shall ~~be~~ *occur at a hearing* held at least every 15
23 days, commencing from the time the minor *or nonminor* was
24 initially detained pending the execution of the order of commitment
25 or of any other disposition, and during the course of each review
26 the court shall inquire regarding the action taken by the probation
27 department to carry out its order, the reasons for the delay, and the
28 effect of the delay upon the minor *or nonminor*. *All of the following*
29 *shall not be considered reasonable delays:*

30 (1) *The probation officer's failure to identify a specific,*
31 *appropriate, and available placement for the minor in the case*
32 *plan described in Section 706.6 upon the court issuing an order*
33 *pursuant to paragraph (3) of subdivision (a) of Section 727 if the*
34 *minor was previously adjudged to be a dependent child of the court*
35 *and was in foster care at the time the petition was filed to*
36 *adjudicate the minor to be a ward of the court on the ground that*
37 *the minor is a person described in Section 601 or 602.*

38 (2) *Delays caused by administrative processes, including, but*
39 *not limited to, the work load of probation officers.*

1 (3) *Delays in convening any meetings between agencies. For*
2 *purposes of this paragraph, “agency” has the same meaning as*
3 *defined in Section 727.*

4 ~~SECTION 1. Section 241.15 is added to the Welfare and~~
5 ~~Institutions Code, immediately following Section 241.1, to read:~~

6 ~~241.15. Notwithstanding any other law, a county shall not~~
7 ~~permit a minor who came within the description of Section 300,~~
8 ~~but who concurrently or subsequently came with the description~~
9 ~~of Section 601 or 602, to remain in juvenile detention beyond the~~
10 ~~completion of the period of confinement imposed by the court.~~